



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEORGE A. ROLSTON
45 SHEPPARD AVE EAST
SUITE 900
TORONTO ON M2N5W-9 CA CANADA

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Application of :
VACCARI, et al :
Application No. 10/597,680 :
Filed: April 27, 2007 :
Attorney Docket No. 1367U101 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed October 13, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

With respect to item (3): The instant petition fails to contain the required statement of unintentional delay under the provisions of 37 CFR 1.137(b). 37 CFR 1.137(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsection (II) (C) and (D).] Since the petition filed September 19, 2011, did not include the proper statement of unintentional delay, the petition cannot be granted.

Petitioner should consider using the petition Form PTO/SB/64 (Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)) on the United States Patent and Trademark website at www.uspto.gov.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions